House of Representatives

General Assembly

File No. 648

January Session, 2005

Substitute House Bill No. 6571

House of Representatives, May 3, 2005

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE AVAILABILITY OF MAINTENANCE DRUGS UNDER THE CONNPACE PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17b-491 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

(a) There shall be a "Connecticut Pharmaceutical Assistance Contract to the Elderly and the Disabled Program" which shall be within the Department of Social Services. The program shall consist of payments by the state to pharmacies for the reasonable cost of prescription drugs dispensed to eligible persons minus a copayment charge. The pharmacy shall collect the copayment charge from the eligible person at the time of each purchase of prescription drugs, and shall not waive, discount or rebate in whole or in part such amount. Except for a replacement prescription dispensed pursuant to section 17b-492, the copayment for each prescription shall be as follows:

(1) Sixteen dollars and twenty-five cents if the participant is (A) not married and has an annual income of less than twenty thousand three hundred dollars, or (B) married and has an annual income that, when combined with the participant's spouse, is less than twenty-seven thousand five hundred dollars.

(2) Upon the granting of a federal waiver to expand the program in accordance with section 17b-492, the copayment shall be twenty dollars for a participant who is (A) not married and has an annual income that equals or exceeds twenty thousand three hundred dollars, or (B) married and has an annual income that, when combined with the participant's spouse, equals or exceeds twenty-seven thousand five hundred dollars.

(b) On January 1, 2002, and annually thereafter, the commissioner shall increase the income limits established in subsection (a) of this section that set the appropriate participant copayment by the increase in the annual inflation adjustment in Social Security income, if any. Each such adjustment shall be determined to the nearest one hundred dollars.

(c) Notwithstanding the provisions of subsection (a) of this section, effective September 15, 1991, payment by the state to a pharmacy under the program may be based on the price paid directly by a pharmacy to a pharmaceutical manufacturer for drugs dispensed under the program minus the copayment charge, plus the dispensing fee, if the direct price paid by the pharmacy is lower than the reasonable cost of such drugs.

(d) Effective September 15, 1991, reimbursement to a pharmacy for prescription drugs dispensed under the program shall be based upon actual package size costs of drugs purchased by the pharmacy in units larger than or smaller than one hundred.

(e) The commissioner shall establish an application form whereby a pharmaceutical manufacturer may apply to participate in the program. Upon receipt of a completed application, the department shall issue a

certificate of participation to the manufacturer. Participation by a pharmaceutical manufacturer shall require that the department shall receive a rebate from the pharmaceutical manufacturer. Rebate amounts for brand name prescription drugs shall be equal to those under the Medicaid program. Rebate amounts for generic prescription drugs shall be established by the commissioner, provided such amounts may not be less than those under the Medicaid program. A participating pharmaceutical manufacturer shall make quarterly rebate payments to the department for the total number of dosage units of each form and strength of a prescription drug which the department reports as reimbursed to providers of prescription drugs, provided such payments shall not be due until thirty days following the manufacturer's receipt of utilization data from the department including the number of dosage units reimbursed to providers of prescription drugs during the quarter for which payment is due.

(f) All prescription drugs of a pharmaceutical manufacturer that participates in the program pursuant to subsection (e) of this section shall be subject to prospective drug utilization review. Any prescription drug of a manufacturer that does not participate in the program shall not be reimbursable **[**,**]** unless the department determines the prescription drug is essential to program participants.

(g) On and after July 1, 2005, the commissioner may allow any eligible person to obtain a maintenance drug in a ninety-day supply if (1) the ninety-day supply is authorized by a licensed practitioner, and (2) the individual has obtained an initial supply of the maintenance drug under the program. Nothing in this section shall prohibit an eligible person from obtaining a maintenance drug in any other amount permitted under the program. As used in this section, "maintenance drug" means a prescription drug designated as a maintenance drug by the commissioner but does not include a schedule II controlled substance.

Sec. 2. Section 17b-494 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2005*):

The Commissioner of Social Services shall adopt regulations, in accordance with the provisions of chapter 54, to establish (1) a system for determining eligibility and disqualification under the program, including provisions for an identification number and a renewable, nontransferable identification card; (2) requirements for the use of the identification number and card by the pharmacy and the eligible person; (3) a system of payments; (4) limitations on the maximum quantity per prescription which shall not exceed (A) with respect to any refill of a maintenance drug, a ninety-day supply or one hundred twenty oral dosage units, whichever is greater, or (B) with respect to any prescription that is not subject to subparagraph (A) of this subdivision a thirty-day supply or one hundred twenty oral dosage units whichever is greater; (5) requirements as to records to be kept by the pharmacy, including patient profiles; (6) products prescribed for cosmetic and other purposes which shall not be covered under the program; and (7) such other provisions as are necessary to implement the provisions of sections 17b-490 to 17b-495, inclusive.

Sec. 3. Section 17b-362 of the general statutes is repealed. (*Effective July 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2005*	17b-491
Sec. 2	*July 1, 2005*	17b-494
Sec. 3	*July 1, 2005*	Repealer section

AGE	*Joint Favorable Subst. C/R*	HS
HS	*Joint Favorable C/R*	APP
APP	*Joint Favorable Subst.*	

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 $	FY 07 $
Social Services, Dept.	GF - Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill allows the Commissioner of Social Services to modify the dispensing limit for maintenance drugs under the ConnPACE program, effective 7/1/05. The program currently allows for the dispensing of a 30 day supply or 120 oral dosage units, whichever is greater. The commissioner would have the authority to change the dispensing limit to the greater of a 90 day supply or 120 oral dosage units. To the extent that this would reduce by two-thirds the average participant co-payment (currently $16.25 per prescription) in certain instances, a corresponding cost to the Department of Social Services would result. However, since the proposed statutory change is permissive, it is anticipated that the commissioner will choose to implement the new policy only if budgeted funds allow.

It should be noted that approximately ninety-six percent (96%) of ConnPACE recipients are eligible for Medicare. sHB 6671 assumes that these individuals will be covered under Medicare Part D as their primary payer of prescription drugs, effective 1/1/06. Dispensing limits imposed by Medicare Part D plan sponsors may differ from those proposed in the bill.

No impact is anticipated to result from repeal of Sec. 17b-362 CGS.

OLR Bill Analysis
sHB 6571

AN ACT CONCERNING THE AVAILABILITY OF MAINTENANCE DRUGS UNDER THE CONNPACE PROGRAM

SUMMARY:
This bill authorizes the Department of Social Services (DSS) commissioner, beginning July 1, 2005, to allow any eligible Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) program participant to obtain a 90-day supply of a maintenance drug if a licensed practitioner authorizes it and the person obtained an initial supply of the drug under ConnPACE. The bill defines "maintenance drug" as a prescription drug that the commissioner designates as such, but not a Schedule II controlled substance.

Currently, all ConnPACE prescription quantities are limited to a 30-day supply or 120 dosage units, whichever is greater. The bill requires the DSS commissioner to adopt regulations setting limits on the maximum quantities per prescription for maintenance drug refills, up to a maximum of 90 days or 120 dosage units, whichever is greater. It maintains the current 30-day or 120 dosage unit cap for other types of prescriptions, including the initial prescription for a maintenance drug. The bill makes a conforming change, consistent with current practice, by eliminating a requirement that limits initial ConnPACE prescriptions for maintenance drugs to a 10-day supply.

The bill also eliminates (1) a statutory 10-day supply cap for Medicaid recipients' initial maintenance drug prescriptions and (2) the authority for a Medicaid-participating nursing home to ask a pharmacist to dispense only a five-day supply of (a) a drug prescribed for the first time to a Medicaid recipient or (b) a prescription refill needed by a patient whose discharge from the home is imminent. By so doing, the bill brings the law into conformity with current DSS practice. Current regulations allow Medicaid participants to receive up to a 30-day supply, but not more than 240 dosage units, except that prescriptions for chronic conditions or maintenance drugs must be for *at least* a 30-day supply but not more than 240 units, unless the doctor prescribes a

lesser amount.

EFFECTIVE DATE: July 1, 2005

BACKGROUND

Controlled Substances

Controlled substances are grouped in Schedules I through V according to their decreasing tendency to promote abuse or dependency. Schedule I substances are the most strictly controlled because of their high potential for abuse. State and federal laws authorize prescribing drugs on Schedules II through V; most Schedule I drugs do not have any approved medical use.

COMMITTEE ACTION

Select Committee on Aging

Joint Favorable Substitute Change of Reference
Yea 12 Nay 0

Human Services Committee

Joint Favorable Change of Reference
Yea 12 Nay 4

Appropriations Committee

Joint Favorable Report
Yea 49 Nay 0